THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.19135 of 1999

Dated : 02.07.2007

Between:

Dr G Seetarama Raju S/o G R K Raju
R/o 5-6-553/1 Hyderabad Road,
Nizamabad District

..... PETITIONER

AND

The District Collector
Nizamabad District Nizamabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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ORDER:

Petitioner claims to be the owner of the premises bearing H.No.5-6-553/1 in Nizamabad Town. The respondents herein proposed to widen the road in Nizamabad town and instructed the petitioner and other house owners to demolish certain area of their premises. Aggrieved thereby, the affected persons filed a writ petition before this Court seeking a direction to the respondents not to demolish their properties situated on the main road of Nizamabad Town, and the same was disposed of directing the respondents to act in accordance with law. Subsequently, pursuant to the notification issued by the first

respondent under Sections 177 and 192 of the Andhra Pradesh Municipalities Act, 1965, for implementation of the Master Plan, prepared pursuant to G.O.Ms.No.46 Health & Municipal Administration Department, dated 15.02.1974, the second respondent issued a notice to the petitioner to demolish the structures covering an extent of 69.67 square meters at the cost of the petitioner, without claiming any compensation. Petitioner alleges that though he raised objections, without considering the same, the respondents have demolished the compound wall.

Now the grievance of the petitioner is that without paying any compensation for the acquired extent of 69.67 square meters or providing alternative land, the respondents are proposing to further demolish his building. Hence, this writ petition.

Respondents 1 and 2 filed separate counter-affidavits stating, *inter alia,* that the petitioner himself has consented to part with the affected area of 166.66 square yards of land in favour of the Municipality at the time of building permission and that the respondents never demolished the structures of the petitioner.

Having heard both the counsel, as the point involved in this writ petition is as to whether the petitioner has consented to part with 69.67 square meters of land for road widening and as it is necessary to look into the record, this Court directed the learned Standing Counsel for the Nizamabad Municipality to produce the record. However, the learned Standing Counsel did not produce the record on 25.06.2007, and a further week's time was granted to the leaned standing counsel to produce the record. Despite the said accommodation, the learned sanding counsel did not produce the record. As the respondents have failed to produce the record establishing the fact that the petitioner had consented to part with his land, this Court has no option but to accept the contention of the petitioner that he never consented to part with the land in question. Further, when the land in question is sought to be acquired

for the purpose of road widening, the respondents can acquire the same by following due process of law.

Accordingly, the writ petition is allowed directing the respondents to initiate land acquisition proceedings for acquiring the land in question and pay compensation to the petitioner, which may be fixed by the Land Acquisition Officer. There shall be no order as to costs.

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02.07.2007

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